

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RALPH D. GWILYMJR,

Plaintiff,

v.

CENTRE COUNTY CORRECTIONAL
FACILITY, *et al.*,

Defendants.

CIVIL ACTION NO. 3:CV-12-2605

(JUDGE CAPUTO)

(MAGISTRATE JUDGE BLEWITT)

ORDER

NOW, this 27th day of March, 2013, upon review of the Report and Recommendation of Magistrate Judge Thomas M. Blewitt (Doc. 6) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report & Recommendation (Doc. 17) is **ADOPTED as modified**.
- (2) Plaintiff's Eighth Amendment denial of medical care claim set forth in the Amended Complaint against Defendants Nurse Rider and Prime Care Medical, Inc. is **DISMISSED without prejudice**.¹
- (3) Plaintiff's First Amendment retaliation claim set forth in the Amended Complaint against Defendants Nurse Rider and Prime Care Medical, Inc. is **DISMISSED without prejudice** to its filing after Plaintiff exhausts his administrative remedies.
- (4) The Clerk of Court is directed to mark the case as **CLOSED**.


A. Richard Caputo
United States District Judge

¹ Plaintiff's original complaint was found to have adequately stated a denial of medical care claim against Defendant Nurse Rider. (Doc. 7.) Plaintiff, however, filed an amended pleading, and for the reasons set forth by Magistrate Judge Blewitt, it failed to adequately plead a denial of medical care claim. And, as the allegations in the Amended Complaint supercede those in the original pleading, Magistrate Judge Blewitt correctly recommends dismissal of the claim. Nevertheless, because Plaintiff is proceeding *pro se* and he has previously demonstrated that he can state a claim upon which relief may be granted, the denial of medical care claim will be dismissed without prejudice to allow Plaintiff to re-file his claim if he so desires.